

REMARKS

Reconsideration of this application is respectfully requested in light of the amendments and remarks made herein.

Claims 1-13, 18-35 and 38-43 were last presented for examination. Claims 14-17, 36 and 37 were previously withdrawn from consideration. Claims 18-20 and 23-25 are allowed over the prior art of record. Claims 1, 3, 4, 21, 22, 26, 39-42 are cancelled without prejudice. Claims 2, 5, 6, 8-13, 18, 19, 23, 24, 27-32 and 38 are amended herein. New claims 43-47 are presented for examination.

Applicant notes that, while claims 18, 19, 23 and 24 have already been deemed allowable, Applicant has made minor amendments to these claims to voluntarily correct certain instances of antecedent basis.

Claim Objections

According to the Office Action under allowable subject matter, claim 2 was “objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims”. Claim 2 is amended herein to include expressly each element recited in its base claim, claim 1, and thus is allowable. Applicant's amendment of claim 2 should not be taken as acquiescence to the rejection of claim 1.

According to the Office Action under allowable subject matter, claims 27 and 28, which each depend directly or indirectly from claim 26, “would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, ¶ 2 set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims”. Claim 27 is amended herein to include all of the elements recited in claim 26, rendering claim 27 allowable. Claim 28 depends from allowable claim 27 and therefore is also allowable. Applicant's amendment of claims 27 and 28 should not be taken as acquiescence to the rejection of claim 26.

Rejections Under 35 U.S.C. § 112

Claims 4, 21, and 39 stand rejected under 35 U.S.C. § 112. Each of claims 4, 21, and 39 are cancelled herein without prejudice, obviating the rejection of these claims. Applicant may pursue the subject matter of these claims in this or other related applications.

Rejections Under 35 U.S.C. § 102

Claims 1, 3-13, 26, 29-35, 38-43 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,338,006 to Jesionowski. The rejection of claims 1, 3, 4, 21, 22, 26 and 39-42 is moot since those claims are canceled without prejudice herein.

Amended claims 5, 6 and 8 – 13 and original claim 7 depend from allowable independent claim 2 and hence are allowable.

Amended claims 28-32 and 38 and original claims 33-35 depend from allowable independent claim 27 and hence are allowable.

Accordingly, claims 2, 5-13, 27-35 and 38 are not anticipated in view of the applied reference. Therefore, Applicants respectfully submit that that claims 2, 5-13, 27-35 and 38 are allowable.

New Claims Presented Herein

New claim 43 features “a controller adapted to direct said transport unit to move said data storage element to said virtual exit port from one of said storage locations in response to at least one command from said host to export said data storage element from said library.” This feature is exemplified in FIG. 2 of the specification of the present invention, and thus no new matter is added by the presentation of new claim 43. New claims 44-46 each depend directly from independent claim 43. None of the prior art of record, including Jesionowski, appears to describe, teach, or suggest the inventions of claims 43-46, and thus these claims are allowable.

New claim 47 features “moving said data storage element from said storage location to said virtual exit port in response to said first storage element export command.” This feature is exemplified in FIG. 2 of the specification of the present invention, and thus no new matter is added by the presentation of new claim 47. None of the prior art of record, including Jesionowski, appears to describe, teach, or suggest the invention of claim 47, and thus claim 47 is allowable.

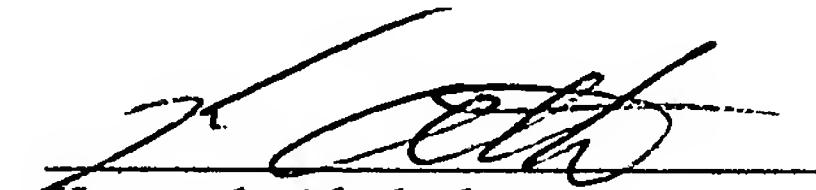
* * *

Authorization To Charge Necessary Fees

While no fee is believed due with this submission, the Commissioner is hereby authorized to charge any necessary fees associated with this submission, or credit any overpayment, to Deposit Account No. 50-0289.

Respectfully submitted,

Dated: 6/17/05



Kenneth Altshuler
Reg. No. 50,551

Correspondence Address

WALL MARJAMA & BILINSKI LLP
101 South Salina Street, Suite 400
Syracuse, New York 13202
Telephone: (315) 425-9000
Facsimile: (315) 425-9114

Customer No.: **20874**

PATENT TRADEMARK OFFICE